



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

Docket No. USCG-2014-0476

RIN 1625-AA00

Safety Zone; Summer Fireworks Displays in the Captain of the Port Lake Michigan Zone

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing three temporary safety zones on waterways in the Captain of the Port Lake Michigan Zone. These safety zones are intended to restrict vessels from a portion of the waterways due to fireworks displays. The temporary safety zones established by this rule are necessary to protect the surrounding public and vessels from the hazards associated with the fireworks displays.

DATES: This rule is effective from July 5, 2014, until 11 p.m. August 2, 2014. This rule will be enforced on July 5, 2014, and August 2, 2014, at times specified in § 165.T09-0476.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG-2014-0476. To view documents mentioned in

this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, contact or email MST1 Joseph McCollum, U.S. Coast Guard Sector Lake Michigan, at 414-747-7148 or Joseph.P.McCollum@uscg.mil. If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 1-800-647-5527.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative

Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking with respect to this rule because doing so would be impracticable and contrary to the public interest. The final details for the three displays within this rule were not known to the Coast Guard until there was insufficient time remaining before the displays to publish an NPRM. Thus, delaying the effective date of this rule to wait for a comment period to run would be both impracticable and contrary to the public interest because it would inhibit the Coast Guard's ability to protect vessels from the hazards associated with three fireworks displays, which are discussed further below.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this temporary rule effective less than 30 days after publication in the Federal Register for the same reasons discussed in the preceding paragraph, waiting for a 30 day notice period to run would be impracticable and contrary to the public interest.

B. Basis and Purpose

The legal basis for this rule is the Coast Guard's authority to establish regulated navigation areas and limited access areas under 33 U.S.C. 1231, 33 CFR 1.05-1, and Department of Homeland Security Delegation No. 0170.1.

On July 5, 2014, between 9:30 p.m. and 10:45 p.m. the Coast Guard anticipates that fireworks will be fired from a barge on Spring Lake in the vicinity of Jerusalem Bayou as part of a private party wedding ceremony near Spring Lake, Michigan. A second fireworks display is anticipated on July 5, 2014. Between 10 p.m. and 11:30 p.m. on that day, the Coast Guard anticipates that fireworks will be fired as part of the "Salute the Troops" Festival on Muskegon Lake in Muskegon, Michigan. Lastly, on August 2, 2014 between 9 p.m. and 11 p.m., the Coast Guard anticipates that a fireworks display will be fired from a barge on the waters of Sturgeon Bay as part of the "Venetian Night" event in Sturgeon Bay, Wisconsin. The Captain of the Port, Lake Michigan, has determined that these fireworks displays will pose a significant risk to public safety and property. Hazards presented by these displays include falling and/or flaming debris, and collisions among transiting or spectator vessels.

C. Discussion of the Final Rule

With the aforementioned hazards in mind, the Captain of the Port, Lake Michigan, has determined that 3 temporary safety zones are necessary to ensure the safety of persons and vessels during the aforementioned fireworks displays on and around Lake Michigan. As such, the following safety zones will be established for the listed events:

1. Private Party Fireworks; Spring Lake, MI.

The safety zone will encompass all waters of Spring Lake in Spring Lake, Michigan, in the vicinity of Jerusalem Bayou, within the arc of a circle with a 500-foot radius from the fireworks launch site located on a barge in approximate position 43°06'39" N, 086°10'56" W. (NAD 83). This zone will be enforced from 9:30 p.m. until 10:45 p.m. on July 5, 2014.

2. Salute the Troops Fireworks; Muskegon, MI.

The safety zone will encompass all waters of Muskegon Lake, in the vicinity of Lafarge Corporation, within the arc of a circle with a 1000-foot radius from a fireworks launch site in approximate position 43°14'00" N, 086°15'50" W. (NAD 83). This zone will be enforced from 10 p.m. until 11:30 p.m. on July 5, 2014.

3. Venetian Night Fireworks; Sturgeon Bay, WI.

The safety zone will encompass all waters of Sturgeon Bay, in the vicinity of Sturgeon Bay Yacht Harbor, within the arc of a circle with a 800-foot radius from the fireworks launch site located on a barge in approximate position 44°49'41" N, 087°22'20" W. (NAD 83). This zone will be enforced from 9 p.m. until 11 p.m. on August 2, 2014.

Entry into, transiting, or anchoring within these safety zones is prohibited unless authorized by the Captain of the Port, Lake Michigan, or her designated on-scene representative. The Captain of the Port or her designated on-scene representative may be contacted via VHF Channel 16.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under

section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS). We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zones created by this rule will be relatively small and enforced for only a short time on the indicated day. Under certain conditions, moreover, vessels may still transit through the safety zones when permitted by the Captain of the Port.

2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered the impact of this temporary rule on small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in the affected portion of

the waters to which each safety zone applies during the time in which each safety zone is enforced.

These safety zones will not have a significant economic impact on a substantial number of small entities for the reasons cited in the Regulatory Planning and Review section. Additionally, before the enforcement of these zones, we would issue local Broadcast Notice to Mariners so vessel owners and operators can plan accordingly.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to

comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "For Further Information Contact" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order

13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of

Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of safety zones and therefore it is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165- REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapters 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T09-0476 to read as follows:

§ 165.T09-0476 Safety Zone; Summer Fireworks Displays in the Captain of the Port Lake Michigan Zone.

(a) Safety Zones. The following are designated as safety zones:

(1) Private Party Fireworks; Spring Lake, MI. All waters of Spring Lake in Spring Lake, Michigan, in the vicinity of Jerusalem Bayou, within the arc of a circle with a 500-foot radius from the fireworks launch site located on a barge in approximate position 43°06'39" N, 086°10'56" W. (NAD 83); 9:30 p.m. until 10:45 p.m. on July 5, 2014.

(2) Salute the Troops Fireworks; Muskegon, MI. All waters of Muskegon Lake, in the vicinity of Lafarge Corporation, within the arc of a circle with a 1000-foot radius from a fireworks launch site located in approximate position 43°14'00" N, 086°15'50" W. (NAD 83); 10 p.m. until 11:30 p.m. on July 5, 2014.

(3) Venetian Night Fireworks; Sturgeon Bay, WI. All waters of Sturgeon Bay, in the vicinity of Sturgeon Bay Yacht Harbor, within the arc of a circle with a 800-foot radius from the fireworks launch site located on a barge in approximate position 44°49'41" N, 087°22'20" W. (NAD 83); 9 p.m. until 11 p.m. on August 2, 2014.

(b) Effective and enforcement period. This section is effective from July 5, 2014 until 11 p.m. on August 2, 2014. This section will be enforced at the times specified in paragraph (a) of this section.

(c) Regulations. (1) In accordance with the general regulations in § 165.23, entry into, transiting, or anchoring within these safety zones is prohibited unless authorized by the Captain of the Port, Lake Michigan or his or her designated on-scene representative.

(2) These safety zones are closed to all vessel traffic, except as may be permitted by the Captain of the Port, Lake Michigan or his or her designated on-scene representative.

(3) The "on-scene representative" of the Captain of the Port, Lake Michigan is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port, Lake Michigan, to act on his or her behalf.

(4) Vessel operators desiring to enter or operate within the safety zones must contact the Captain of the Port, Lake Michigan, or his or her on-scene representative to obtain permission to do so. The Captain of the Port, Lake Michigan, or his or her on-scene representative may be contacted via VHF Channel 16.

Dated: June 18, 2014.

A.B. COCANAOUR,
Captain, U. S. Coast Guard,
Captain of the Port, Lake Michigan.

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